

REMARKS

This paper is filed in response to the Office Action mailed on June 10, 2002.

Claims 1-29 stand rejected. In the Office Action, the Examiner rejected claims 1, 3-14, 16-18, 20-21, 23-24, and 27-29 under 35 U.S.C. § 102(b) as being anticipated by Yamamoto (U.S. Patent No. 5,499,842). Claims 2, 15, 19, 22, and 25-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto in view of Rheinlander (U.S. Patent No. 5,863,064). For the reasons set forth below, claims 1, 3-14, 16-18, 20-21, 23-24, and 27-29, and newly added claims 30-34 are in a condition for allowance.

I. Rejection of 1, 3-14, 16-18, 20-21, 23-24, and 27-29

As stated above, claims 1, 3-14, 16-18, 20-21, 23-24, and 27-29 are rejected under 35 U.S.C. § 102(b) as being anticipated by Yamamoto. Office Action, p. 2-3. The Examiner asserts that Yamamoto discloses a face portion 11/12 and a seam 15 in the face portion 11/12. Office Action, p. 2. The Examiner further asserts that the seam 15 disclosed in Yamamoto comprises a "nonlinear portion 21 having first and second ends (Fig. 1), and a plurality of bends . . . in consecutively alternating directions." Office Action, p. 2.

A. Yamamoto Does Not Disclose An Outer Layer Affixed to the Exterior Side of the Face Portion

Under 35 U.S.C. § 102, a "claim is anticipated . . . only when a single prior art reference discloses each and every limitation of the claim." *Glaxo, Inc. v. Novopharm Ltd.*, 52 F.3d 1043, 1047, 34 U.S.P.Q.2d 1565, 1567 (Fed. Cir. 1995). As amended, claims 1, 16, 21, and 24 include a limitation requiring "an outer layer" affixed to the face portion. As the Examiner correctly observes, "Yamamoto does not disclose an outer, and

cosmetic, layer." Office Action, p. 4. As a consequence, Yamamoto does not disclose each and every limitation in claims 1, 16, 21, and 24, as amended, and does not anticipate these claims.

As claims 3-14, 17-18, 20, 23, and 27-29 depend on either claim 1, 16, 21, or 24, these claims likewise include the limitation requiring "an outer layer" affixed to the face portion and, as a consequence, are allowable over Yamamoto. Accordingly, claims 1, 3-14, 16-18, 20-21, 23-24, and 27-29 are all allowable over Yamamoto.

II. Rejection of 2, 15, 19, 22, and 25-26

As stated above, the Examiner has also rejected claims 2, 15, 19, 22, and 25-26 under 35 U.S.C. § 103(a) as unpatentable over Yamamoto in view of Rheinlander. Applicant respectfully submits that the Examiner has not made a *prima facie* case of obviousness in asserting this rejection.

It is well settled that the PTO has the burden to establish a *prima facie* case of obviousness. *In re Glaug*, 2002 U.S. App. Lexis 4246, *4 (Fed. Cir. March 15, 2002); *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Fine*, 837 F.2d, 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); MPEP § 2142. "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP § 2143.03.

A. Neither Yamamoto nor Rheinlander Contain a Suggestion to Combine a Face Portion Having a Nonlinear Seam with an Outer Layer.

A *prima facie* case of obviousness is not established unless the prior art would have suggested to one of ordinary skill in the art to modify the prior art in order to arrive at the claimed invention. *In re Dow Chemical*, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

The genius of invention is often a combination of known elements which in hindsight seems preordained. To prevent hindsight invalidation of patent claims, the law requires some "teaching, suggestion or reason" to combine cited references. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573, 1579, 42 U.S.P.Q.2D (BNA) 1378, 1383 (Fed. Cir. 1997). When the art in question is relatively simple, as is the case here, the opportunity to judge by hindsight is particularly tempting. Consequently, the tests of whether to combine references need to be applied rigorously. See *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d (BNA) 1614, 1617 (Fed. Cir. 1999), limited on other grounds by *In re Gartside*, 203 F.3d 1305, 53 U.S.P.Q.2D (BNA) 1769 (2000) (guarding against falling victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher).

McGinley v. Franklin Sports, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001).

Yamamoto discloses a single outer wall 11, having a front, decorative surface and a seam 15 formed in a rear surface of the outer wall 11. (See Figures 1 and 2, Col. 4, lines 8-10, and Col. 5, lines 52-64 of Yamamoto.) Because the outer wall 11 of Yamamoto has a front, decorative surface, placing the cosmetic, outer layer 20 of Rheinlander over the single outer wall 11 would be superfluous and counterintuitive. Moreover, as neither Yamamoto nor Rheinlander recognize the problems associated with visible seams, these patents provide no motivation or suggestion to combine the single outer wall 11 of Yamamoto with the outer layer 20 of Rheinlander.

III. Claims 30-34, the Newly Added Claims, Are Allowable over the Cited Prior Art

A. Claims 30-34 are Allowable over Yamamoto under 35 U.S.C. § 102(b)

As stated above, under 35 U.S.C. § 102, a "claim is anticipated . . . only when a single prior art reference discloses each and every limitation of the claim." *Glaxo, Inc.*, 52 F.3d at 1047, 34 U.S.P.Q.2d at 1567. Yamamoto does not disclose a seam having "at least four bends in consecutively alternating directions." Instead, as shown in Figure A

of the Office Action, p. 3, Yamamoto discloses only three bends in the nonlinear portion of the seam.

Furthermore, in Figure C (a marked-up copy of Figure 1 of Yamamoto) on page 3 the Office Action, the four portions highlighted by the examiner do not bend in consecutively alternating directions. The two center bends both bend in a clockwise direction. In addition, a careful reading of Yamamoto reveals that the bend highlighted near number 12c, which is one of the four highlighted bends of Figure C, does not disclose a seam having a bend. If the pair of curved lines highlighted in Figure C near the number 12c indicated a seam having a bend, then Figure 3 of Yamamoto would include two seams because Figure 3 shows a cross-sectional view through two pairs of the lines (*See* line III-III of Figure 1). (One pair of lines is near number 12d, and the other is near number 12c in Figure 1 of Yamamoto.) Instead, Figure 3 of Yamamoto discloses a single seam, which is formed by a V-shaped incision into the outer wall 11. The pairs of lines shown in Figure 1 each indicate opposing sides or boundaries of a V-shaped incision, which boundaries are visible because Figure 1 is a "bottom view" of an outer wall 11. Col. 4, lines 8-9.

Figures 3 and 4 of Yamamoto correctly identify the narrowest portion of the outer wall 11 defined by the V-shaped incision as the seam 15, or the portion that will break when the airbag is inflated. The narrowest portion of the outer wall 11 formed by the V-shaped incision is simply not depicted in Figure 1 and, as a consequence, no seam having a bend is disclosed near the number 12c of Figure 1 in Yamamoto.

Thus, claim 30 is allowable over Yamamoto because Yamamoto does not disclose a seam having "at least four bends in consecutively alternating directions." Because

claims 31-34 depend on claim 30, these claims likewise include this limitation and are also allowable over Yamamoto.

B. Claims 30-34 are Allowable over Yamamoto in View of Rheinlander under 35 U.S.C. § 103(a)

As explained above, Yamamoto does not teach a nonlinear seam having at least four bends in consecutively alternating directions. Furthermore, Rheinlander fails to disclose such a seam. Accordingly, Rheinlander and Yamamoto simply cannot be combined to teach the configuration of claim 30. Therefore, claim 30 and claims 31-34, which depend on claim 30, are allowable over Yamamoto in view of Rheinlander.

In summary, Yamamoto does not teach "an outer layer" affixed of the face portion of the cover. As such, the amended claims 1, 3-14, 16-18, 20-21, 23-24, and 27-29, as amended, are allowable over Yamamoto. Furthermore, the cited prior art does not recognize the problems associated with visible seams. Accordingly, neither Yamamoto nor Rheinlander provide any motivation or suggestion to combine the outer wall 11 of Yamamoto with the outer layer 20 of Rheinlander. Thus, the amended claims 1, 3-14, 16-18, 20-21, 23-24, and 27-29 are also allowable over Yamamoto in view of Rheinlander.

With respect to newly added claims 30-34, neither Yamamoto nor Rheinlander teach a nonlinear seam having "at least four bends in consecutively alternating directions." As such, the newly added claims are allowable over Yamamoto and over Yamamoto in view of Rheinlander.

Therefore, the Applicant respectfully requests allowance of claims 1, 3-14, 16-18, 20-21, 23-24, and 27-29, as amended, and the newly added claims 30-34. If the

Examiner finds any remaining impediment to the prompt allowance of these claims,
Applicant respectfully requests that the Examiner call the undersigned.

Attached hereto is a marked-up version of the changes made to the claims by the
current amendment. The attached page is captioned "**VERSION WITH MARKINGS**
TO SHOW CHANGES MADE."

DATED this 10th day of September, 2002.

Respectfully submitted,



Sally J. Brown
Reg. No. 37,788
Attorney for Applicant

Autoliv ASP
3550 Airport Road
Ogden, UT 84405
Telephone: (801) 625-4800

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Amended) A cover for a safety restraint device for use in a vehicle, the cover comprising:

a face portion capable of being positioned between the safety restraint device and an interior compartment of the vehicle, the face portion comprising an exterior side facing away from the safety restraint device; and

a seam formed in the face portion, the seam comprising a nonlinear portion having a first end and a second end, the nonlinear portion comprising a plurality of bends in consecutively alternating directions; and

an outer layer affixed to the exterior side of the face portion.

14. (Amended) The cover of claim 1, wherein the face portion is formed by single-shot construction, and wherein the face portion operates exclusive of an the outer layer.

16. (Amended) A cover for a safety restraint device for use in a vehicle, the cover comprising:

a face portion positionable between the safety restraint device and an interior compartment of the vehicle, the face portion comprising an exterior side facing away from the safety restraint device; and

a seam formed in the face portion, the seam comprising a nonlinear portion, the nonlinear portion comprising a plurality of bends in consecutively alternating directions,

the bends being adjacent to each other and substantially exclusive of any linear segment therebetween; and

an outer layer affixed to the exterior side of the face portion.

20. (Amended) The cover of claim 18, wherein the face portion is formed by single-shot construction, and wherein the face portion operates exclusive of ~~an~~ the outer layer.

21. (Amended) A cover for a safety restraint device for use in a vehicle, the cover comprising:

a face portion positionable between the safety restraint device and an interior compartment of the vehicle, the face portion comprising an exterior side facing away from the safety restraint device; and

a seam formed in the face portion, the seam comprising:

 a nonlinear portion having a first end and a second end, the nonlinear portion comprising a plurality of bends in consecutively alternating directions, the bends being adjacent to each other and substantially exclusive of any linear segment therebetween;

 a first side portion adjacent and substantially perpendicular to the first end of the nonlinear portion, the first side portion being substantially linear; and

a second side portion adjacent and substantially perpendicular to the second end of the nonlinear portion, the second side portion being substantially linear; and
an outer layer affixed to the exterior side of the face portion.

23. (Amended) The cover of claim 21, wherein the face portion is formed by single-shot construction, and wherein the face portion operates exclusive of ~~an~~ the outer layer.

24. (Amended) A method for making a cover for a safety restraint device for use in a vehicle, the method comprising:

providing a face portion adapted to be installed between the safety restraint device and an interior compartment of the vehicle, the face portion comprising an exterior side facing away from the safety restraint device; and

forming a seam in the face portion, the seam having a nonlinear portion with a first end and a second end, the nonlinear portion comprising a plurality of bends in consecutively alternating directions; and

affixing an outer layer to the face portion, over the seam.